

VESTING TENTATIVE SUBDIVISION MAP

FILE NO. PT14-010

LOCATION OF PROPERTY Southwest corner of North 1st Street and Century Center

PURPOSE OF MAP Tentative Map to merge 2 lots into one (1) lot for 378 residential condominium units on a 2.40 gross acre site

TITLE OF MAP Tentative Map For: Barry Swenson Builder
1731-1733 North First Street

DRAWN BY Kier & Wright Engineers

DATE OF MAP March, 2014

ENVIRONMENTAL Re-use of the North San Jose EIR (Resolution No. 72768) and Addenda thereto, File No. PDC13-055

APPLICANT/ADDRESS Barry Swenson Builder
777 1st Street
San Jose, California 95112

OWNER/ADDRESS Schmidt F. James Et Al
2804 Mission College Boulevard, Unit 120
Santa Clara, California 95054

FACTS

1. The subject site has a land use designation of Combined Industrial/Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The project site is located in the A(PD) Planned Development Zoning District (File No. PDC13-055).
3. The Century Center Towers Rezoning (Ordinance No. 29386) was adopted on March 18, 2014 and allows up to 460 multi-family attached residential units and up to 20,000 square feet of commercial uses.
4. A Planned Development Permit (File No. PD13-048) was approved on June 4, 2014 to allow construction of a 12-story mixed-use building consisting of up to 378 apartment units, up to 5,115 square feet commercial space, and an associated parking garage.
5. The project site is located on the southwest corner of North 1st Street and Century Center Court and is surrounded by an office building and a motel to the north across North 1st Street, industrial buildings to the south and southwest, office buildings to the east across North 1st Street, and an office building to the west.

6. The environmental impacts of the project were addressed by an Addendum to the North San Jose EIR, which was adopted by City Council Resolution No. 727768 on June 21, 2005. Pursuant to Section 21081.6 of the California Environmental Quality Act (CEQA) a Mitigation Monitoring and Reporting Program (MMRP) was adopted that includes measures to mitigate or avoid significant effects on the environment.

FINDINGS

1. The Director of Planning of the City of San José finds that the proposed subdivision shown on the Vesting Tentative Map, subject to the conditions listed below and the requirements for project design and improvements is consistent with applicable General and Specific Plans of the City of San José, in that:
 - a. The Vesting Tentative Map is consistent with the Planned Development Permit application approved for the site (City File Number PD13-048).
2. The Director of Planning of the City of San José has considered the proposed subdivision shown on the Vesting Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in subsections (a) through (g) of Section 66474 of the Government Code of the State of California. Based on that review, the Director of Planning of the City of San José does not make any such findings for the subject subdivision.
3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. The environmental impacts of the project were addressed by an Addendum to the North San Jose EIR, which was adopted by City Council Resolution No. 727768 on June 21, 2005. Pursuant to Section 21081.6 of the California Environmental Quality Act (CEQA) a Mitigation Monitoring and Reporting Program (MMRP) was adopted that includes measures to mitigate or avoid significant effects on the environment.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Vesting Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
3. **Improvement Contract.** In the event subdivider has not completed the improvements required for his proposed subdivision at the time the Final Map is presented for approval, subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.
4. **Public Use Easements.** Subdivider shall dedicate on the Final Map for public use easements for

public utilities, streets, pedestrian ways, alleys, street lighting, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.

5. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Vesting Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Final Map. Such easements so conveyed shall be shown on the Final Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.
6. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PT14-010, has expired and all appeals have been exhausted.
7. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
8. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
9. **Conformance to Plans.** Development shall conform to the approved Planned Development Tentative Map plans entitled, "Tentative Map For: Barry Swenson Builder 1731-1733 North First Street," dated March, 2014, on file with the Department of Planning, Building and Code Enforcement and to the San Jose Building Code (San Jose Municipal Code, Title 17, Chapter 17.04).
10. **Conformance with Previously Approved Zoning.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning remain in effect.
11. **Conformance with Other Permits.** The subject Planned Development Tentative Map conforms to and complies in all respects with the Planned Development Permit PD13-048. Approval of said Planned Development Tentative Map shall automatically expire with respect to any portion of the lands covered by such Planned Development Tentative Map on which a Final Map has not yet been recorded if, prior to recordation of a Final Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.

12. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:
- a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area and sewer treatment plan.
 - b. All public streets on which each Final Map has frontage are improved or bonded to be improved to the satisfaction of the Director of Public Works.
 - c. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
 - d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, to the satisfaction of the Director of Public Works.
13. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, and is subject to the following requirements to the satisfaction of the Director of Public Works: (OD46-2013)
- a. *Construction Agreement:* The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. *Transportation:*
 - i. An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.
 - ii. Consistent with North San Jose EIR, this project is required to pay a traffic impact fee. The 2013 fee is \$9,068.00 per single-family unit and \$7,256 per multi-family unit and subject to annual escalation of 3.3%. This fee must be paid prior to issuance of public works clearance. Credits for existing structures on site will be applied to the residential traffic impact fee consistent with the policy and will be prorated with each building permits issued.
 - c. *Grading/Geology:*
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iii. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

- iv. The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. *Stormwater Runoff Pollution Control Measures:* This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29
 - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- e. *Stormwater Peak Flow Control Measures:* The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- f. *Flood: Zone AO, Depth 1 foot*
 - i. The project site has been designated as Flood Zone AO (Depth 1-foot), effective October 25, 2006, by a Letter of Map Revision (LOMR) issued by the Federal Emergency Management Agency (FEMA). The Santa Clara Valley Water District (District) administered the LOMR submittal in conjunction with the Downtown and Lower Guadalupe River Flood Protection Projects. The net result is that the project site will continue to remain within the 100-year floodplain (area having a one-percent or greater chance of being flooded in any given year).
 - ii. Elevate the lowest floor more than 1 foot above the highest existing adjacent grade to the proposed structure.
 - iii. Elevate the lowest floor of the commercial/retail units more than 1 foot above the highest existing adjacent grade to the proposed structure or floodproof to the same elevation. For insurance rating purposes, the building's floodproofed design elevation must be at least one foot above the base flood elevation to receive rating credit.
 - 1) An Elevation Certificate (FEMA Form 81-31) for each proposed structure, based on construction drawings, is required prior to issuance of a grading permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.
 - iv. If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 81-65) for each structure, floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.

- v. Provide vent openings for all enclosures below the base flood elevation (ex. at-grade garages). The design must either be certified by a registered professional engineer or meet the following requirements:
- vi. Provide vent openings on at least two exterior walls of each enclosure to automatically equalize the lateral pressure of the floodwaters. The bottom of each opening shall be no higher than twelve inches above the exterior adjacent grade. Provide a minimum of two vent openings having a total net area of not less than one square inch per one square foot of enclosed area.
- vii. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.
- g. *Sewage Fees:* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- h. *Parks:* In accordance with the Parkland Dedication and Park Impact Ordinances (SJMC 19.38/14.25), the park impact fee will be due for any additional living units that are built.
- i. *Street Improvements:*
 - i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - ii. Dedicate 9-feet and construct 12-foot sidewalk, curb and gutter and 22-foot curb lane along North First Street frontage.
 - iii. Close any unused driveway cut(s).
 - iv. Proposed driveway width to be 26-feet.
 - v. Upgrade existing handicap ramps (2) to meet current ADA requirements by installing the detectable warning feature at the opposite returns across Century Center Court and North First Street (NW/c and SW/c).
 - vi. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- j. *Sanitary:* The existing sanitary sewer system along the project frontage is identified to be deficient per the General Plan 2040 anticipated build-out flow. The applicant shall select one of the following alternatives:
 - i. Upsize the existing 10" sanitary sewer line to 15" from the southerly project property line on First Street to the manhole at the connection with the existing 15" sanitary sewer line at Airport Parkway / Old Bayshore Frontage Road. The applicant shall be reimbursed 86% of the actual construction costs.
 - ii. Provide a 14% fair share contribution based on a City provided master plan level estimate towards a future sanitary sewer upsizing project.

k. *Electrical:*

- i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans
- ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.

l. *Street Trees:*

- i. The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
- ii. Contact the City Arborist at (408) 277-2756 for the designated street tree.
- iii. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.

14. **Expiration of Permit.** This Vesting Tentative Map shall automatically expire 48 months from and after the date of issuance hereof by the Director of Planning of the City of San José. The date of issuance is the date this Permit is approved by the Director of Planning.

APPROVED and issued this on the **4th Day of June, 2014.**

Harry Freitas, Director
Planning, Building and Code Enforcement

Deputy